

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

| | | |
|--------------------------|---|------------------------------|
| UNITED STATES OF AMERICA | : | |
| | : | |
| v. | : | CRIMINAL NO. 4:02-CR-8-2-CDL |
| | : | |
| RICARDO KIOWA GONZALES, | : | |
| _____ | : | |

**GOVERNMENT'S RESPONSE TO DEFENDANT'S REQUEST
FOR GOVERNMENT PAYMENT OF TRANSCRIPT**

COMES NOW the United States of America, by and through its attorney, the United States Attorney for the Middle District of Georgia, and responds in opposition to Defendant's Request for Government Payment of Transcript, as served on October 18, 2005, and received on October 24, 2005.

Gonzales has filed a notice of appeal from this Court's Order of September 20, 2005, which denied Gonzales' motion for appointment of counsel, pursuant to the report and recommendation issued by Judge Faircloth in May 2005. In his pending request, Gonzales suggests that transcripts of the grand jury proceedings and the bail hearing pertinent to the original prosecution in this court are "necessary" for his appeal because (he claims) his allegations can be substantiated by a review of

the transcripts.

However, Gonzales' motion was denied simply because Gonzales had no legal right to counsel or to have funds expended for his representation in this court, insofar as there was no pending criminal prosecution or other proceeding that justified his motion per 18 U.S.C. § 3006A. Because this Court did not base its ruling on some inquiry into the underlying facts, the Eleventh Circuit will not be called upon to conduct an appellate review of any factual substantiation that Gonzales might seek to provide for his allegations. Similarly, because this Court's proceeding on his motion did not involve the taking of evidence, Gonzales cannot properly invoke 18 U.S.C. § 3006A(e)(1) or Fed.R.App.P. 10(b)(1) to justify or fund this expense.

Accordingly, Defendant's request for government payment of transcript should be denied.

Respectfully submitted, this 24th day of October, 2005.

G.F. PETERMAN
ACTING UNITED STATES ATTORNEY

BY: _____
s/Dean S. Daskal
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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of October, 2005,
I electronically filed the within and foregoing GOVERNMENT'S
RESPONSE TO DEFENDANT'S REQUEST FOR GOVERNMENT
PAYMENT OF TRANSCRIPT with the Clerk of the Court using the
CM/ECF system which will send notification of such filing to the
following: None.

I also certify that I have mailed by the United States Postal Service
the document to the following non-CM/ECF participants:

Ricardo Kiowa Gonzales #77558, 1300 N. Warehouse Road, Ft.
Leavenworth KS 66027.

G.F. PETERMAN
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